

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14860 of Ethan E. and E. Kendall Landis, pursuant to 11 DCMR 3107.2, for a variance from the maximum allowable floor area ratio requirements (Sub-section 402.4), a variance from the minimum rear yard requirements (Sub-section 404.1), a variance from the maximum allowable percentage of lot occupancy requirements (Sub-section 403.2), and variances to allow enlargements or additions to be made to a nonconforming structure provided that the structure conforms to percentage of lot occupancy, structure requirements, and the addition or enlargement does not increase or extend an existing nonconforming aspect of the structure, lot occupancy, floor area ratio and rear yard [Paragraph 2001.3 (a), (b) and (c)], to allow a proposed accessory garage and deck addition to an existing apartment house in an R-5-B District at premises 1427 R Street, N.W., (Square 207, Lot 105).

HEARING DATE: September 21, 1988, January 11, April 12, and June 14, 1989
DECISION DATE: July 5, 1989

FINDINGS OF FACT:

1. The application was originally scheduled for public hearing on September 21, 1988. By letter dated September 6 and December 20, 1988, the applicant requested and the Board granted a postponement of the hearings schedules for September 21, 1988 and January 11, 1989 to allow the owner of 1429 R Street, who was in opposition to the application, time to sell his property so that the applicant could work with and seek the support of the new owner. At the public hearing scheduled for April 12, 1989, the applicant raised and supported a written request for a further postponement from Advisory Neighborhood Commission 2C, dated April 7, 1989, to allow the ANC an opportunity to reconsider its previous report. The Board granted the postponement and a continuation date was scheduled for June 14, 1989.

2. The subject site is located on the northwest corner of R Street and Johnson Avenue, N.W. The property is known as premises 1427 R Street, N.W. It is zoned R-5-B.

3. The subject lot is 1,415 square feet in area and is currently partially occupied by a three-story, four-unit apartment house built in 1895 and renovated in 1955.

4. The surrounding area is characterized by a mix of residential and commercial uses including higher density apartment buildings interspersed throughout the area. The Fifteenth Street Presbyterian Church is situated on the northeast corner of 15th and R Streets, N.W. in the same block as the subject property.

5. The R-5-B District permits matter-of-right development of general residential uses including single-family dwellings, flats, and apartments to a maximum lot occupancy of sixty percent, a maximum floor area ratio (FAR) of 1.8 and a maximum height of sixty feet.

6. The apartment house occupies 943.68 square feet (66.66%) of the subject lot. The rear yard is 24 feet and contains no structures. The subject lot does not have alley access.

7. At present, the four apartments are occupied. One of the applicants resides in one of the units.

8. The applicants are requesting the following relief:

- (a) A variance of 1,852.12 square feet (72.69%) from the maximum floor area ratio (FAR) requirements;
- (b) A variance of 15 feet (100%) from the minimum rear yard requirements;
- (c) A variance of 566.208 square feet (66.66%) from the maximum allowable percentage of lot occupancy requirements; and
- (d) A variance from the provision to allow enlargements and additions to a nonconforming structure provided that the structure conforms to percentage of lot occupancy, structure requirements, and the addition or enlargement does not increase or extend an existing nonconforming aspect of the structure, lot occupancy, floor area ratio and rear yard.

9. With this relief, the applicants propose to add a two-car rear accessory garage to the existing residential structure as well as two above-ground decks. The proposed brick garage will measure approximately 24' X 19.5' and occupy the entire existing rear yard and will have access from Johnson Avenue, N.W. Two wooden decks will be added above the garage with access from the second and third floors of the existing structure, respectively. A portion

of the proposed garage would be used for a workshop as well as storage space for the tenants. The first floor deck will have two central air conditioning units in the northeast corner with a screening fence around them. Each deck would have planters around its periphery for plants and flowers. The applicants testified that the structures will be built with quality materials and crafted to integrate well with the neighborhood.

10. The applicants indicated that allowing the construction of a garage will provide secure parking for two cars as well as storage space for the tenants. It will also prevent passers-by from dumping trash and abandoned furniture on the otherwise vacant space. They indicated further that the decks are needed to provide outdoor living space for the tenants.

11. The Office of Planning (OP), by report dated April 5, 1989 and through testimony at the hearing, recommended denial of the subject application. The Office of Planning is of the opinion that the relief requested in this application is excessive and would, if granted, impair the intent, purpose and integrity of the Zoning Regulations in general and the R-5-B District regulations in particular. The proposed additions would seriously and negatively impact the properties immediately adjacent to the subject lot by creating a situation of extreme building density at this particular location. Furthermore, the OP finds no practical difficulty for the applicants if permission to proceed with this project is not granted. OP feels that a reasonable use has already been established for the subject property, and that a one hundred percent coverage of the subject lot is neither appropriate nor reasonable for the neighborhood. The OP, therefore, recommends denial of the application.

12. Advisory Neighborhood Commission (ANC) 2C, by letter dated September 15, 1988, expressed strong opposition to the proposed construction because of its adverse effect-on the sunken patio located next door to the site.

13. ANC 2C reconsidered its position on the application, and by letter dated June 12, 1989, the ANC retracted the opposition previously expressed. The ANC was persuaded that the majority of the residents of the immediate neighborhood support the application based mainly on their belief that the garage will improve the appearance of the rear of the property and their observation that the applicant is a "good neighbor". The ANC noted further that the present owner of the condominium unit at 1429 R Street, N.W., who owns the adjacent sunken patio, is not opposed to this application. The potential for economic damage to the owner of that patio and the opposition of its former owner were major factors in the previous opposition to this application. The Commission, however still believes that

the decks proposed in this application will be economically detrimental to the adjacent property (1429 R Street, N.W.) and urges that this portion of the application not be permitted.

14. The Board recognizes the concerns of the Office of Planning and the ANC and notes that the applicants have indicated their willingness to eliminate the deck addition from the application and to limit their proposal to the garage only, if this modification would be more acceptable.

15. Six letters of support were submitted into the record and one letter of opposition was received.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and evidence of record, the Board concludes that the applicants are seeking area variances for the proposed construction of a two-car accessory garage in the rear of a 4-unit apartment building. Granting such variance, requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the application will not be of substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan.

The Board concludes that the applicants have met this burden of proof. Because of the nonconforming structure and small size of the subject property, the applicants are unable to provide secure parking within an accessory structure. The Board is, therefore, of the opinion that this condition creates a practical difficulty for the applicants.

The Board is of the opinion that eliminating the decks from the proposal also eliminates the problem of having the decks overshadow the adjacent property. Furthermore, construction of the garage will enhance the appearance of the subject area. The Board, therefore, concludes that the proposed garage will not be a substantial detriment to the public good.

The Board is of the opinion that because the applicants have modified the application to construct the garage only, the building density will not be as great. The Board, therefore, concludes that the proposal will not impair the purpose, intent or integrity of the zone plan.

The Board concludes that it has given the ANC the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is hereby GRANTED IN PART to permit the construction of the garage ONLY.

VOTE: 4-0 (Charles R. Norris, William F. McIntosh, Paula L. Jewell and Carrie L. Thornhill to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: NOV 28 1989

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT".

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14860order/LJP55

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14860

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a letter has been mail to all parties, dated NOV 28 1980, and mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Ethan Landis
1427 R Street, N.W., #3
Washington, D.C. 20009

Clarene Martin, Chairperson
Advisory Neighborhood Commission 2-C
Garrison Elementary School
1200 S Street, N.W., Suite 202
Washington, D. C. 20009

A handwritten signature in dark ink, appearing to read "EL Curry", written over a horizontal line.

EDWARD L. CURRY
Executive Director

DATE: NOV 28 1980